

1 THE HONORABLE JAMES L. ROBART
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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA

Plaintiff,

vs.

CITY OF SEATTLE

Defendant.

CASE No. C12-1282JLR

**THIRD-YEAR MONITORING
PLAN**

This memorandum summarizes the Seattle Monitoring Team's "Third-Year Monitoring Plan" (also referred to as the "Plan"). The Plan details the major objectives, key results, and milestones to be accomplished during the next 12 months. It builds on the progress made by the Seattle Police Department ("SPD" or the "Department") to date and delineates immediate and intermediate range tasks essential to the Department's anticipated compliance with the consent decree entered into by the City and the United States Department of Justice ("DOJ") on July 27, 2012 ("Settlement Agreement" or "Consent Decree"). The Department's achievements during

1 the first two years of this process and the opportunities set forth in this Plan are representations
2 of progress toward this enduring goal: ensuring that SPD polices effectively, safely, and
3 constitutionally and has in place the systems necessary to manage for itself the risk of
4 unconstitutionally excessive force and impermissibly bias-based policing in the future after the
5 Consent Decree ends.

6 As approved by the Parties, the Plan formalizes expectations and deadlines for the third
7 year. Among other things, it provides for a formal reassessment of the policies already approved
8 by this Court, review of the ongoing training required to implement those policies, and an
9 examination of the Department's officers' use of force, interactions with those in behavioral
10 crisis, its stops and detentions, and the Department's critical self-analysis structures, including
11 those SPD officials responsible for investigating and reviewing use of force incidents and
12 misconduct allegations.

13 It also details the process the Monitoring Team, and the Department of Justice, will use to
14 conduct those examinations ("systemic assessments"), each under their own independent
15 enforcement obligations. Notably, the Plan also entails a qualitative public confidence
16 assessment, which will consider whether SPD's performance, activities, and outreach are
17 building a framework for increasing public trust and confidence.

18 This memorandum is not a comprehensive discussion of SPD's progress toward
19 compliance. It does not supplant the Monitoring Team's Fifth Semiannual Report, which will
20 detail developments during the six-month period from December 2014 through June 2015 and
21 will be filed by June 15, 2015. Instead, this memorandum looks ahead. It summarizes the hard
22 work, both for the Parties and the Monitoring Team, that lies ahead during the upcoming third
23 year of monitoring.

24 The Plan itself is attached as Appendix A.

25

1 **I. PRIMARY OBJECTIVES FOR THE THIRD-YEAR OF MONITORING**

2 As the Monitor's semiannual reports have previously noted, a great deal was
3 accomplished by the Department during the first two years of monitoring. Important new
4 policies were drafted. Officers were trained on how to effectively translate those new policies
5 into action. New review boards and investigatory bodies were created and their protocols
6 established. An interim database for tracking use of force data, which the Department began
7 collecting electronically for the first time in its history, was made operational.

8 The primary objectives described in the Plan build upon those accomplishments. The
9 Plan seeks to provide clear expectations and guidance to the Department, the City, and the
10 Seattle community about areas that the Monitor will assess and expects to see continued
11 improvement.

12 **A. Policy Review**

13 During the third year, each policy, procedure, and manual required by the Consent
14 Decree – and previously approved by the Court – will be reviewed by the Department with the
15 assistance of the Monitor and in collaboration with the DOJ. Specifically, the Department's use
16 of force, bias-free policing, and stops and detentions policies will each be reviewed. The OPA
17 Manual and two related policies (addressing the reporting of misconduct and non-retaliation) will
18 also be reviewed. This reassessment is an essential self-correcting feature of the Consent Decree
19 in which the Parties have committed to regularly discussing, identifying and revising, where
20 needed, what has worked and what has not worked. Following each review, the Monitor will file
21 any proposed revisions agreed to by the Parties with the Court indicating approval and/or
22 disapproval in the manner outlined in the Consent Decree. The deadlines for each of those
23 filings are established by the Plan.

1 **B. Ongoing Policy Implementation (Stops and Detentions and Crisis
2 Intervention)**

3 The Department will soon, for the first time, begin collecting and utilizing information
4 about stops and detentions and its interactions with those in “behavioral crisis.” The collected
5 information will be assessed for accuracy and completeness under the Department’s respective
6 policies. The Parties will also assess, for Stops, whether the collected information is regularly
7 accessible to an officer’s supervisor in such a way that, by the end of each shift, a supervisor will
8 be able to obtain and review his/her supervisees’ incident reports and any other reports that
9 document the basis for investigatory stops and detentions to determine if they were supported by
10 reasonable suspicion and consistent with SPD policy. Both sets of data will inform deployment
11 and other decisions crucial to this community.

12 **C. Officer Training**

13 All SPD officers will receive another year of training that seeks to build upon the
14 foundation of training received in 2014. Training will be conducted in classes covering each of
15 the following topics: Individual Defensive Tactics Skills, De-Escalation Individual Tactics,
16 Individual Firearms, Taser, Team Tactics and Defensive Tactics, Team Tactics and Firearms,
17 De-Escalation Team Tactics, Use of Force Reporting.

18 Some areas of training are noteworthy. First, for one of the first times in its history, the
19 Department will offer specialized training for its supervisors. Among other topics, those
20 trainings will include guidance concerning: use of force reporting requirements, coaching and
21 mentoring, tactical leadership and incident command, legal updates, and personnel management.
22 The deadlines for the Department to complete those trainings are set forth by the Plan.

23 By April 1, 2015, SPD will provide the Parties and the Monitor with a plan for delivering
24 roll call trainings related to the Department’s Stops and Detentions policies. The Department
25 will also provide the Parties and the Monitor with a Year-End Report on its Bias-Free Policing

1 and Stops and Detention Trainings. Among other things, the Department's report will: (i) detail
2 what roll call trainings were given; and (ii) discuss the efforts by SPD leadership and supervising
3 officers to continue to reinforce to subordinates that discriminatory policing is an unacceptable
4 tactic, and officers who engage in discriminatory policing will be subject to discipline. The Plan
5 requires that the Parties receive the Department's report by December 15, 2015.

6 Following the Department's extensive work throughout the first two years of Monitoring
7 with the Crisis Intervention Committee and its completion of draft Crisis Intervention
8 Sustainment Training, the Plan requires that the Department to continue to implement that
9 training during the third year. Specifically, the Plan requires that by December 15, 2015, all SPD
10 sworn personnel and all communications dispatcher's personnel will complete 8 and 3 hours,
11 respectively, of Crisis Intervention Sustainment Training. "CIT-Certified" officers, i.e., those
12 with higher degree of specialized training, will attend courses specifically designed for them by
13 SPD or the State Training Academy.

14 The Plan also provides that the SPD will continue to track each employee's successful
15 completion, or lack of completion, of training requirements, transitioning from a spreadsheet-
16 based system to the use of performance management computer software. It also sets a June 26,
17 2015, deadline for a final policy that codifies a process and procedure for ensuring that an
18 officer's failure to complete required training is fairly and timely addressed by the officer's chain
19 of command.

20 **D. Structures of Critical Self-Analysis**

21 Four major structures that facilitate Department's self-analysis will be advanced during
22 the third year. First, the Department's Early Intervention System ("EIS") policy will be fully
23 implemented. This includes the completion of EIS trainings by all supervisors and other sworn
24 personnel and verification that all necessary data is readily available to supervisors.

1 Second, the Department has issued an RFP for the completion of its Data Analytics
2 Platform (“DAP”). In the coming months, the Department will award a contract to the entity that
3 it believes to be the most successful proposer and begin implementation of the DAP with
4 prioritization of those areas of personnel management addressed or otherwise encompassed by
5 the Consent Decree.

6 Third, in partnership with the CIC, the SPD will conduct an assessment of its CIT
7 responses, including, but not limited to: (i) the distribution of CIT-certified officers throughout
8 the Department; (ii) the regularity, quality and nature of response to critical incidents by the
9 Crisis Response Team (“CRT”); (iii) roughly how many crisis incidents are being handled by
10 SPD officers; and (iv) approximately how well the community stakeholder referral system is
11 working with respect to officers knowing how to connect subjects to social service providers.

12 Lastly, during the third year, SPD will create a training program for the members of the
13 Use of Force Review Board (“FRB”) which will include a set of minimum performance
14 expectations, attendance requirements, legal updates, training curriculum utilized by the Training
15 Section regarding use of force, and other important topics. It will also generate a written report,
16 twice per year, that: (i): inventories the “lessons learned” at the FRB; (ii) indicates what
17 responses or changes in training, policy, procedure, or administration have been effectuated as a
18 result of those lessons; and (iii) responds to recommendations that the Monitor has made about
19 the FRB contained in the Monitor’s Semiannual Reports.

assess

20 Relatedly, the Monitor and the Parties will collaboratively ~~assess~~ and determine whether
21 the Department’s Force Investigations Team (“FIT”) has or has not performed satisfactorily
22 under the direction of the Professional Standards section of the Department. If by July 13, 2015,
23 either the Monitor or either of the Parties determines that FIT is not meeting compliance
24 requirements of the Settlement Agreement, then that entity may move the Court to transfer FIT
25 to the purview of the Office of Police Accountability.

E. Systemic Assessments

The Monitoring Plan for the third year focuses much more on the Monitor and DOJ's systemic assessments of SPD's progress. With the Department having made notable progress in getting necessary policies implemented, processes up and running, and structures in place, the Parties, Monitor, and Seattle community must all be able to have confidence that the requirements of the Consent Decree are being carried out in practice – not merely on paper.

Accordingly, the Monitor and DOJ must independently verify whether the various requirements of the consent decree are “being carried out in practice.” (Dkt. No. 3-1 ¶ 184.) In the upcoming year, the Monitoring Team will conduct some 15 separate assessments on the extent to which various Consent Decree’s provisions have taken root in the real world. (See, Appendix B for chronological representations of the assessments and Appendix C listing dates the assessments will be filed with the Court). The results of the Monitoring Team’s analysis will be filed with the Court, and thereby made available to the public, independent from the Monitor’s ongoing semi-annual reports on the status of compliance.

The Monitoring Team will assess collected data on use of force (including Type I, Type II, and Type III uses of force and officer-involved shootings) by SPD officers. By September 4, 2015, the Monitor and the Parties will have conferred on the results of their use of force assessments. The Monitor will then issue a report to the Parties of the Monitoring Team's findings by October 21, 2015, which will then be presented to the Court in November.

The Monitoring Team and DOJ will also assess the uniformity, detail, and completeness of the Department's Type I, Type II, and Type III use of force reporting. By June 12, 2015, the Monitoring Team will provide the Parties with a draft report of its assessment. The draft report will present the Monitoring Team's findings, and otherwise summarize its qualitative and quantitative conclusions. To the extent that the assessment identifies the need for follow-up or subsequent assessments, or conditions or requirements that must be met in order to reach full and

1 effective compliance with implicated provisions, the report will expressly state as such. The
2 report will also identify those areas in which the Monitor believes the Department must improve
3 to be in compliance. The final report will be filed with the Court by July 13, 2016.

4 The Monitoring Team and DOJ will also assess the quality, rigor, completeness, and
5 timeliness of Force Investigation Team investigations of Type III uses of force and officer-
6 involved shootings, and other investigations referred to FIT. By June 26, 2015, the Monitoring
7 Team will provide the Parties with a draft report of its FIT investigations assessment. The final
8 report will be filed with the Court by July 13, 2016.

9 Additionally, the Monitor and DOJ will assess the quality, rigor, completeness, and
10 timeliness of Force Review Board (“FRB”) reviews and deliberations on force incidents. This
11 review will include a consideration of the quality of the FRB process and its consideration of
12 force incidents. The Monitoring Team will file a report of its assessment with the Court by
13 September 18, 2015.

14 The Monitoring Team and DOJ will also asses the extent to which OPA is continuing to
15 investigate use of force complaints objectively and thoroughly, and OPA’s processes,
16 procedures, and investigations conform to the various provisions of the approved OPA Manual.
17 By June 26, 2015, the Monitoring Team will provide the Parties with a draft report of its
18 assessment. The draft report will present the Monitoring Team’s findings, and otherwise
19 summarize its qualitative and quantitative conclusions. The final report will be filed with the
20 Court by August 27, 2015.

21 Further, the Monitoring Team and DOJ will assess whether CI-Trained Officers are being
22 dispatched to incidents or calls involving individuals in crisis and are appropriately leading
23 interactions with those individuals when appropriate to minimize the need to use force. A report
24 detailing the Monitoring Team’s assessment results will be filed with the Court by February 1,
25 2016.

1 The Monitoring Team and DOJ will also assess whether SPD officers are specifically and
2 clearly articulating reasonable suspicion when they conduct investigatory stops or detentions, or
3 conduct field interviews for Terry stops in a manner consistent with SPD policy, the
4 Constitution, and federal law. A report detailing the Monitoring Team's assessment results will
5 be filed with the Court by March 14, 2016.

6 Additionally, the Monitoring Team and DOJ will assess whether the SPD's revised EIS
7 policies and procedures are ensuring interventions that assist officers in avoiding potentially
8 troubling behavior. A report detailing the Monitoring Team's assessment results will be filed
9 with the Court by February 19, 2016.

10 The Monitoring Team will also assess the extent to which supervisors are effectuating the
11 supervision-related provisions of the Consent Decree. A report detailing the Monitoring Team's
12 assessment results will be filed with the Court by October 9, 2016.

13 Importantly, the Monitoring Team in collaboration with the DOJ will conduct a scientific
14 assessment of community perceptions of the SPD. The assessment will closely conform to the
15 substance of the Monitoring Team's related September 2013 survey. *See*, Second Semiannual
16 Report at pg. 63. By October 16, 2015 the Monitoring Team will file with the Court a "Public
17 Confidence Report" containing results from its survey and a qualitative public confidence
18 assessment.

19 The Monitoring Team and DOJ will conduct an in-depth analysis of officer activity to
20 examine whether police services are being delivered in a manner that effectively ensures public
21 and officer safety. The Monitoring Team will file its Officer Activity Assessment Report with
22 the Court by November 13, 2015.

23 Finally, the Monitoring Team will issue its Fifth and Sixth Semiannual Reports during
24 2015. It will also draft a community outreach plan for the Parties comments and agreement.

II. CONCLUSION

2 The Third-Year Monitoring Plan is before this Court for approval. It is a pragmatic plan
3 that endeavors to set aggressive but realistic dates for compliance. The first two years of
4 monitoring were marked by significant achievements. Nonetheless, significant challenges
5 remain. Unless the Plan specifically provides otherwise, to continue to ensure enduring progress
6 toward achieving the major objectives of the Consent Decree, any party or parties seeking to
7 delay a deadline in the Plan must seek an extension from the Court. The Monitor may, at his
8 discretion, support or comment on the motion to extend.

We respectfully seek this Court's approval of the Third-Year Monitoring Plan.

DATED this 17th day of March, 2015.

Merrick J. Bobb, Monitor

The Court hereby approves the Third-Year Monitoring Plan dated March 17, 2015.

DONE IN OPEN COURT this 19th day of March, 2015.

THE HONORABLE JAMES L. ROBART
UNITED STATES DISTRICT JUDGE